

IN THE DRAWINGS:

The attached Replacement Sheet includes amendments to Fig. 2 and replaces the original sheet including Fig. 2. Fig. 2 has been amended to include examples of subprogram component 210. The added examples include “210 TRACKING SUBPROGRAM,” “210 GENERATING SUBPROGRAM,” and “210 CHANGING SUBPROGRAM.” Support for these amendments may be found in at least paragraph 34 of the specification.

Attachments: Replacement Sheet

REMARKS

This application has been reviewed in light of the Office Action dated October 9, 2007. Claims 1-14 are presented for examination, with Claims 1, 6, 9 and 14 being in independent form. Claims 1-14 have been amended. Favorable consideration is requested.

Submitted herewith is a Replacement Sheet that includes amendments to Fig. 2. Fig. 2 has been amended to include examples of subprogram component 210. The added examples include “210 TRACKING SUBPROGRAM,” “210 GENERATING SUBPROGRAM,” and “210 CHANGING SUBPROGRAM.” Applicant submits that the amendments to Fig. 2 add no new matter to the original disclosure, and support for the amendments may be found in the specification at, for example, paragraph 34. Approval of the amended drawing is respectfully requested. Applicant also notes that although the specific claim language of each claim may not be present in the figures, each feature of the claimed invention is illustrated in the figures through the use of the exemplary figure elements described throughout the specification. It is believed that the objection to the drawings has been obviated and its withdrawal is therefore respectfully requested.

Claims 5 and 13 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. On page 4, the Office Action states the following rationale for the written description rejection:

The addition, division, multiplication, recompilation, recoding, and removal of a component are not adequately described in the applicant’s specification. The examiner could only locate [0023] of the specification as being related to the claims and [0023] fails to elaborate on the meaning of such actions on a component. Therefore, the claims cannot be said to be described well enough in the applicant’s specification to show possession of the claimed invention.

Applicant respectfully disagrees.

The plain meaning of the terms adding, dividing, multiplying, recompiling, recoding, and removing were widely known in the art at the time of filing. Applicant fails to see how one skilled in the art would need any further description to understand that Applicant was in possession of applying these basic concepts in the art to components in the context of Applicant's claimed invention. "To satisfy the written description requirement, an applicant must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention, and that the invention, in that context, is whatever is now claimed," (emphasis added) MPEP § 2163.02. Read with this standard in mind, a person skilled in the art would understand the concept of adding a component to a system, for instance. Should this rejection be maintained then Applicant respectfully requests further guidance as to the rationale relied on by the Office.

Claims 5 and 13 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. On page 4, the Office Action states the following rationale for the enablement rejection:

The addition, division, multiplication, recompilation, recoding, and removal of a component are not adequately described in the applicant's specification. The examiner could only locate [0023] of the specification as being related to the claims and [0023] fails to elaborate on the meaning of such actions on a component. Therefore, since the meaning of actions such as multiplying or dividing a component that may be hardware (see [0017] of the applicant's specification) are unclear, the claimed subject matter cannot be enabled due to the vague and indefinite description of the subject matter in the applicant's specification.

Applicant respectfully disagrees.

The courts have long established the standard for determining whether the specification meets the 35 U.S.C. § 112, first paragraph, enablement requirement, widely known as the *Wands* factors. *See* MPEP § 2164.01. These factors include: (A) The breadth of the claims, (B) The nature of the invention, (C) The state of the prior art, (D) The level of one of ordinary skill, (E) The level of predictability in the art, (F) The amount of direction provided by the Inventor, (G) The existence of working examples, and (H) The quantity of experimentation needed to make or use the invention based on the content of the disclosure. *See* MPEP § 2164.01(a) and *In re Wands*, 858 F.2d 731, 737 (Fed. Cir. 1988). Applicant respectfully submits that the Office Action is completely lacking of any such analysis. Accordingly, Applicant respectfully requests withdrawal of this rejection.

Furthermore, Applicant respectfully disagrees with the Office Action's characterization of the disclosure. The Office Action states that "the meaning of actions such as multiplying or dividing a component that may be hardware (see [0017] of the applicant's specification) are unclear," (*See* Office Action page 4). Whether a component is hardware as opposed to software (or a combination of hardware and software) does not change the meaning of a multiplication or division action on a component. Applicant submits that one skilled in the art would clearly understand that when a hardware component is employed in the context of Applicant's disclosure the functionality or elements within a component are multiplied or divided, either literally and/or logically as appropriate. For instance, *inter alia*, a hardware storage component could be multiplied by adding an additional component with some amount of storage to the system, reallocating memory in the system, or by simply adding storage to the component being multiplied. Applicant maintains that one skilled in the art would clearly understand the concept of

adding, dividing, multiplying, recompiling, recoding, and removing components in the context of the invention and would certainly be able to do so in view of Applicant's disclosure.

Claims 1-14 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has carefully reviewed and amended Claims 1-14, as deemed necessary, to ensure that they conform fully to the requirements of Section 112, second paragraph, with special attention to the points raised in section 7-10 of the Office Action. It is believed that the rejection under Section 112, second paragraph, has been obviated, and its withdrawal is therefore respectfully requested.

Without conceding the propriety of this rejection, Claims 1-7, 9-12, and 14 have been amended to remove the term "may," and Claims 2-3, 8, 10, and 12 have been amended to remove the recitation "configured to be automatic and manual."

Additionally, with regard to Claims 5 and 13, on page 5 the Office Action states "it is unclear how a component may be divided, [or] multiplied . . . [t]he meaning of multiplying a hardware component, for example, is unclear." Applicant respectfully disagrees. The fact that a component is hardware as opposed to software (or a combination of hardware and software) does not change the meaning of a multiplication or division action on a component. One of ordinary skill in the art would clearly understand that when a hardware component is employed in the context of Applicant's disclosure the functionality or elements within a component are multiplied or divided, either literally and/or logically as appropriate. For instance, *inter alia*, a hardware storage component could be multiplied by adding an additional component with some amount of storage to the system, reallocating memory in the system, or by simply adding storage to the component

being multiplied. Applicant maintains that one of ordinary skill in the art would clearly understand the concept of adding, dividing, multiplying, recompiling, recoding, and removing components in the context of the invention.

The Office Action rejected Claims 1-14 under 35 U.S.C. § 102(a) and § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0055951 (*Chemali*); rejected Claims 1-7 and 9-14 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,219,676 (*Reiner*); and rejected Claims 1-14 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0172152 (*Vaver*). Applicant respectfully traverses these rejections and submits that amended independent Claims 1, 6, 9, and 14, together with the claims dependent therefrom, are patentably distinct from the cited art for at least the following reasons.

Amended independent Claim 1 recites, in part, “detecting a failing component[,] . . . generating a problem ticket[,] . . . determining an owning group of the failing component[,] . . . routing the problem ticket to the owning group; . . . tracking repair status information[,] . . . and comparing the repair status information to a pre-established service level agreement specifying a level of service expected for repair of the failing component by the owning group,” (emphasis added).

As best understood by Applicant, *Chemali* monitors “software applications running on a network, provide[s] realtime access to the [monitoring] data, [provides] realtime warnings and/or instructions from the evaluation of such data, and stor[es] such data for later evaluation,” (See *Chemali* Abstract and paragraphs 81-82). *Chemali* does not appear to provide any tracking of repair status information, let alone “comparing the repair status information to a pre-established service level agreement specifying a level of service

expected for repair of the failing component by the owning group,” as recited by Claim 1 (emphasis added).

Accordingly, Applicant submits that Claim 1 is not anticipated by *Chemali*, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 102(a) and § 102(e).

As best understood by Applicant, *Reiner* is concerned with cache coherency. In particular, *Reiner* attempts to address the cache coherency problems associated with dredging and web crawling by “provid[ing] a method for the origin web server to intelligently communicate [a] list of changed content.” See *Reiner* Col. 4, lines 33-49 and Col. 5, lines 11-19. *Reiner* does not appear to provide any tracking of repair status information, let alone “comparing the repair status information to a pre-established service level agreement specifying a level of service expected for repair of the failing component by the owning group,” as recited by Claim 1 (emphasis added).

Accordingly, Applicant submits that Claim 1 is not anticipated by *Reiner*, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 102(b).

Vaver “provides a system for . . . collecting and analyzing module-level service history data.” See *Vaver* paragraph 30. *Vaver*’s collected service history data includes “when a module was manufactured; when it was received by the customer; when it was placed into service; when it may have been repaired in the field; when it may have been returned to the manufacturer for repair; when it may have been returned by the manufacturer; when new software or hardware modification may have been made to the module; the condition under which the module operated; the demand placed on the module; module testing . . . ; when it may have been placed in or removed from inventory; and when it may have been relocated within the network.” See *Vaver* paragraph 29. *Vaver* uses the

collected service history data to “better evaluate and predict the reliability of the network . . . , verify module reliability performance, and identify modules with chronic problems.”

See Vaver paragraph 30.

As best understood by Applicant, *Vaver*, at the very least, fails to “detect[] a failing component . . . [,] generat[e] a problem ticket in response to the detecting . . . [,] determin[e] an owning group of the failing component and route[] the problem ticket to the owning group,” as recited by Claim 1. Furthermore, *Vaver* does not “compar[e] the repair status information to a pre-established service level agreement specifying a level of service expected for repair of the failing component by the owning group,” as recited by Claim 1 (emphasis added).

Accordingly, Applicant submits that Claim 1 is not anticipated by *Vaver*, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 102(e).

Independent Claims 6, 9, and 14 include features similar to those discussed above with respect to Claim 1 and are believed to be patentable for at least the same reasons as discussed above with respect to Claim 1.

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable over *Chemali*, *Reiner*, and *Vaver* for at least the same reasons. Because each dependent claim also is deemed to define an additional aspect of the invention, individual consideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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